

14CV5025
Document 1 Filed 07/03/14 Page 1

FILE COPY

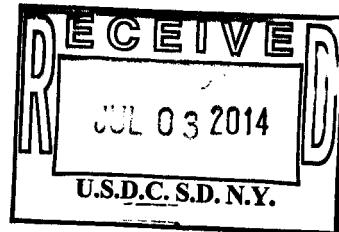
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALBERTO RIVERA, Individually And On
Behalf Of All Other Persons Similarly Situated,
THREE

-against- :

WHOLE FOODS MARKET GROUP, INC.,

Defendant. :



Civil Action No. _____

NOTICE OF REMOVAL

TO THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK:

1. Whole Foods Market Group, Inc. is the defendant ("Defendant") in the civil action commenced in the Supreme Court of the State of New York, County of New York, Index Number 651559/2014 (NYSECF Case). Pursuant to provisions of Section 1441 and 1446 of Title 28 of the United States Code, Defendant removes this action to the United States District Court for the Southern District of New York, which is the judicial district in which the action is pending, on the basis of diversity of citizenship (28 U.S.C. § 1332).

2. The ground for removal of this action on the basis of diversity of citizenship is as follows:

a. Plaintiff is an individual that resides in the State of New York, City of New York, County of New York and is a citizen of the State of New York:

b. Defendant Whole Food Market Group, Inc. is a corporation organized and incorporated under the laws of the State of Delaware, with its principal place of business in the State of Texas, and is not, and has not been, a citizen of the State of New York.

c. There is more than \$75,000 exclusive of interest and costs in controversy in this action.

3. Additionally, any other basis of relief asserted by Plaintiff in his action arises out of the same set of facts and are part of the same case or controversy, so that this court has supplemental jurisdiction of them within the meaning of 28 U.S.C. § 1441(a).

4. This Notice of Removal is timely under 28 U.S.C. § 1446(b). This lawsuit was filed on May 21, 2014. Defendant was served with Plaintiff's initial papers (Summons and Complaint) in this action on June 6, 2014. Thus, this Notice of Removal is filed within 30 days of receipt of the Summons and Complaint and is timely filed under 28 U.S.C. § 1446(b). Diversity existed at the time of the filing of this lawsuit and exists at the time of removal.

5. Pursuant to the provisions of 28 U.S.C. § 1446(a), Defendant attaches to this notice and incorporates by reference copies of the following papers, which are all of the process, pleadings, and orders served on Defendant prior to the removal of this action.

a. Summons and Class Action Complaint filed in the Supreme Court of the State of New York, New York County, Index Number 651559/2014 (NYSECF Case), which is being marked as Exhibit 1;

b. Affidavit of Service filed in the Supreme Court of the State of New York, New York County, Index Number 651559/2014 (NYSECF Case), on June 24, 2014, which is being marked as Exhibit 2.

6. Promptly upon filing this Notice of Removal with this Court, Defendant shall give written notice hereof to Plaintiff by service to his counsel and shall file and serve on the Clerk of the Supreme Court of the State of New York, New York County, a copy of this notice.

7. Defendant respectfully gives notice that this action is to be removed from the Supreme Court of the State of New York, New York County, to the United States District Court for the Southern District of New York. Defendant does not waive any defense that may be available to it.

WHEREFORE, Defendant Whole Foods Market Group, Inc. prays that the above action now pending against it in the Supreme Court of the State of New York, New York County, be removed to this Court. If any questions arise as to the propriety of the removal of this action, Defendant requests the opportunity to present a brief and oral argument.

Dated: New York, New York
July 3, 2014

Greenberg Traurig, LLP

By: Eric B. Sigda
Eric B. Sigda (ES-1827)
200 Park Avenue
New York, NY 10166
(212) 801-9386
sigdae@gtlaw.com
Attorneys for Defendant Whole Foods
Market Group, Inc.